

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

FORREST FISHER,
Plaintiff,

v.

VIRGINIA DEPARTMENT OF
CORRECTIONS, et al.,
Defendants.

Civil Action No. 7:06cv00529

ORDER

By: Samuel G. Wilson
United States District Judge

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** as follows:


1. The Report and Recommendation of United States Magistrate Judge Michael F. Urbanski is **ADOPTED IN PART** and **REJECTED IN PART**:

- a. The court **REJECTS** the Magistrate Judge's recommendation that defendants' motion for summary judgment be denied as to defendant Armentrout.
- b. The court **ADOPTS** the Magistrate Judge's recommendation that defendants' motion for summary judgment be denied as to all remaining defendants.
2. Defendants' motion for summary judgment with regard to defendant Armentrout is **GRANTED** and the clerk is directed to **TERMINATE** defendant Armentrout as a defendant to this action.
3. Defendants' motion for summary judgment with regard to defendants VDOC, Jabe, Cei, Huffman, and Ray is **DENIED**.
4. Accordingly, only the following claims will go forward:
 - a. Defendants Jabe, Cei, Huffman, and Ray violated Fisher's First Amendment right to free exercise and Fourteenth Amendment right to equal protection with regard to not allowing Fisher to possess a "Thor's Hammer" medallion; and

- b. Defendants VDOC and Cei violated his statutory rights under RLUIPA in implementing and enforcing a VDOC policy relating to the “Thor’s Hammer” medallion and in implementing, enforcing, and/or failing to enforce the VDOC procedure for an inmate to obtain an exception to have a religious item not on the pre-approved religious item list.
5. The Clerk is **DIRECTED** to set this matter for trial before a seven-member jury on the remaining claims.

The Clerk of the Court is directed to send a certified copy of this Order and the accompanying Memorandum Opinion to the plaintiff.

ENTER: This 6th day of ^{July}~~June~~, 2007.


United States District Judge